

REMARKS

Claims 1-8 are under consideration. With this Response, independent claims 1, 5, and 8 have been amended. Support for these amendments can be found throughout the application, including on pages 3 and 6 of the application as filed. Reconsideration of these claims as now amended is respectfully requested.

Rejection under 35 USC 103

Claims 1-8 were rejected under 35 USC 103(a) as being unpatentable over Scharschmidt (US 3,615,677) in view of Hart (US 4,555,409) on page 2 of the Office Action. Applicants respectfully traverse.

However, in order to advance prosecution and without conceding the basis of the rejection and without conceding the basis of the propriety of the combination of Scharschmidt and Hart, Applicants have amended independent claims 1, 5, and 8. It is submitted that independent claims 1, 5, and 8 now even more fully define over the references of record.

Specifically, with the present amendment, Applicants have amended independent claims 1, 5, and 8 to recite, inter alia, a corn blend comprising: from about 75% to about 90% non-steeped non-gelatinized corn material; from about 10% to about 25% non-steeped pre-gelatinized corn material; from about 5% to about 12% a starch.

In short, the references of record do not disclose, teach, or suggest these specific combinations of ingredients in addition to the other elements of the claims. Scharschmidt discloses a composition of 45-85%, 45%-75%, or 55-75% corn; 15-40%, 15-35%, or 20-30% soy; and 0-30%, 5-25%, or 8-12% wheat. Column 3, lines 23-34. It discloses in column 5, lines 23-25, that pregelatinized corn can be substituted for some or all of the ungelatinized corn flour. The present application discloses a minimum amount of 10% non-steeped pre-gelatinized corn material. Thus, in order for Scharschmidt to have 10% pre-gelatinized corn flour and 75% non-steeped non-gelatinized corn material, it must have 85% corn flour, resulting in a flour of 10% pre-gelatinized and 75% non-gelatinized. At 85% corn flour, and with a minimum of 15% soy, no wheat could be included. Thus, at that point, Scharschmidt would not include a starch as is claimed in the presently pending claims. Therefore, for at least this reason, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 USC 103(a).

Moreover, Applicants submit that the rejection should be withdrawn for at least the following added reasons. Hart discloses adding calcium hydroxide to a water/corn mixture. However, the presently pending claims recite a “corn blend” comprising, inter alia, calcium hydroxide. On the other hand, Hart discloses making a water/corn mixture and then adding calcium hydroxide to that mixture, not a corn blend comprising calcium hydroxide, inter alia, as is presently claimed. Additionally, the Office Action points to example III of Scharschmidt as using calcium carbonate. However, it should be noted that in example III, Scharschmidt does not disclose a corn blend as is presently claimed. Example III only discloses corn flour (no mention of gelatinization), defatted soy flour, and calcium carbonate, but no wheat flour. It is also noted that examples IV and V disclose calcium carbonate. However, example IV uses the same blend as example III. The blend of example V uses 4% ungelatinized corn flour, 30% defatted soy flour, 20% durham wheat, and 1% calcium carbonate. Thus, from these examples, even if the calcium hydroxide from Hart was added as is done in Scharschmidt, it is submitted that the combination would not teach the claim elements of the presently pending application and certainly would not do so in as complete as detail as is arranged in the pending claims of the present application. Additionally, Scharschmidt gives no indication and does not disclose anywhere the reason or basis for its use of calcium carbonate. Therefore, it is unclear that a simple substitution with calcium hydroxide is so easily performed as the Office Action makes out. Thus, even if the substitution is made, those examples still do not teach the claim elements of the presently pending claims.

Thus, Applicants submit that the amended claims now even more fully define over the references of record. Applicants respectfully request reconsideration and withdrawal of the rejections under 35 USC 103(a).

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CONCLUSION

In view of the above remarks, it is submitted that the present application is now in condition for allowance, and the Examiner is requested to pass the case to issue. If the Examiner should have any comments or suggestions to help speed the prosecution of this application, the Examiner is requested to contact the Applicants' undersigned representative.

Respectfully submitted,
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